UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,938	05/04/2001	Christophe Fouquet	SCH-87	8408

22827   7590   01/24/2006

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

EXAMINER
JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/849,938	FOUQUET, CHRISTOPHE
	Examiner	Art Unit	
	Scott L. Jarrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-50</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-50</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This non-final office action is in response to Applicant's amendment file

November 30, 2005. Currently claims 1-50 are pending.

Response to Arguments

Applicant's arguments, see Last Paragraph, Page 10, filed November 30, 2005,

with respect to the rejection(s) of claim(s) 1-50 under U.S.C. 101, U.S.C. 102(a) and

U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection

has been withdrawn. However, upon further consideration, a new ground(s) of rejection

is made in view of Solomon Associates, Resolution Integration Solution, Inc. and

Juneau, Mark Anthony, U.S. Patent Publication No. 2004/0015271.

Title

2.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

The following title is suggested: System and Method for Creating Facility

Resource Utilization Models using Predefined Templates.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 1, 3, 16-17, 21, 29, 38, 42, and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 1, 3, 16-17, 21, 29, 38, 42, and 49 the disclosure does not clearly define the phrase "template." A template as claimed could include any of a plurality of entities including but not limited to formulas, equations, document formats, sets/catalogs of attributes/characteristics, models, worksheets, workbooks, standard processes/approaches, frameworks or the like making the phrase "template" as claimed vague and indefinite. Examiner interpreted template to encompass any of the definitions above for the purposes of examination.

Allowable Subject Matter

5.   Claims 5, 25, 35 and 41 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7.   Claims 1, 6, 8-12 and 14-15 are rejected under 35 U.S.C. 102(a) as being

anticipated by SA-Inc.com (Solomon Associates, SA) Web Pages (January 2001).

Regarding independent Claim 1 Solomon Associates (SA) teaches method for

modeling the resource utilization performance of a plurality of facilities utilizing a

standardized/templated process of defining, obtaining, analyzing and reporting a

plurality of facility attributes, properties, characteristics, indicators and the like, the

method comprising:

      - assigning predefined template(s) (standard indicators, attributes, input forms,

worksheets, models, etc.; Last Paragraph, Page 8; Tables 1-10) to a facility, the

template including default (standard, normal, industry, previous, etc.) attribute data

(information, values, definitions, etc.; Bullet 1, Page 19);

      - obtaining (retrieving, entering, extracting, monitoring, etc.) facility resource

utilization data (Bullet 3, Page 19; Bullet 2, Page 20); and

      - normalizing the facility resource utilization data based on the predefined

template (divisors, indicators, performance correlation, benchmarks; Paragraph 3, Page

26; Paragraph 3, Page 35; Pages 39-40).

SA further teaches that the method for generating resource utilization models of one or more facilities using a standardized/templated process further comprises:

- creating a catalog (registry, list, template, etc.) of user-defined/system-defined attributes (properties, characteristics, parameter, indicators, equipment, etc.; Paragraphs 3-4, Page 22; Page 23; Tables 1-10);

- obtaining facility resource utilization and attribute data from a plurality of (two or more) facilities (Paragraphs 1 and 3, Page 4; Paragraphs 3-4, Page 22);

- comparing/benchmarking selected resource utilization data (Bullet 1, Page 6; Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15; Pages 24-25).

SA further teaches that the comparative performance analysis method further comprises:

- providing the method (questionnaires, attribute tables/catalog, etc.) and data to a customer (user, client, etc.) via a intercommunicating electronic media (Excel spreadsheets, email, diskettes, etc.; Last Paragraph, Page 6; Bullet 1, Page 20);

- defining, collecting, analyzing and reporting resource utilization and attribute data from two or more facilities (Paragraph 1, Page 18; Paragraph 1, Page 24; Paragraphs 3-4, Page 25);

- including attribute and resource utilization data aggregate sums of two or more facilities (peer groups, performance quartiles, etc.; Paragraph 1, Page 24; Paragraphs 3-4, Page 25; Last Paragraph, Page 35);

- generating historical reports (Bullets 1 and 3, Page 20; Paragraph 1, Page 24; Paragraphs 3-4, Page 25);

- enabling users to continuously (in real-time) monitor (obtain and report) facility

performance ("SA-Profile" continuous performance monitoring system; Page 3); and

- ranking modeled facilities based on the normalized attributes/metrics/indicators

(Bullet 1, Page 6; Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15).

Regarding Claim 6 SA teaches a method for modeling the performance of a

facility wherein normalization of the resource utilization data is activated (started,

invoked, etc.) by one of the following events (selected from the following events): a user

update to a facility model (e.g. changes to attribute values); user demand (i.e. as part of

the facility modeling process; Paragraph 4, Page 22; Paragraph 3, Page 26) or the

elapse of a predetermined time period.

Regarding Claim 8 SA teaches a method for modeling the performance of a

facility further comprising obtaining resource utilization and attribute data from two or

more facilities (plants, locations, sites, etc.; Paragraphs 1 and 3, Page 4; Paragraphs 3-

4, Page 22).

Regarding Claim 9 SA teaches a method for modeling the performance of a

facility further comprising aggregating the obtained resource utilization and attribute

data from a user defined group of facilities (peer groups, performance quartiles, etc. as

defined by SA analysts; Paragraph 1, Page 18; Paragraph 1, Page 24; Paragraphs 3-4,

Page 25; Paragraph 1, Last Paragraph, Page 35).

Regarding Claim 10 SA teaches a method for modeling the performance of a facility wherein the facility attribute and resource utilization data include the aggregate sum of two or more facilities (peer groups, performance quartiles, etc.; Paragraph 1, Page 24; Paragraphs 3-4, Page 25; Last Paragraph, Page 35).

Regarding Claim 11 SA teaches a method for modeling the performance of a facility further comprising comparing the normalized resource utilization data for a user group of facilities (peer groups, performance quartiles, etc.; Paragraph 1, Page 24; Paragraphs 3-4, Page 25; Last Paragraph, Page 35).

Regarding Claim 12 SA teaches a method for modeling the performance of a facility further comprising benchmarking the facilities based on the comparison of resource utilization data for a user defined group of facilities (Bullet 1, Page 6; Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15; Pages 24-25; Last Paragraph, Page 35).

Regarding Claim 14 SA teaches a method for modeling the performance of a facility wherein the resource utilization data is one of the following: energy, water, natural gas or oil (petrochemical, refining, etc.; Paragraph 1, Page 1, Paragraph 2, Page 2).

Regarding Claim 15 SA teaches a method for modeling the performance of a facility wherein the method and data are provided to a customer (user, client, etc.) via a intercommunicating electronic media (Excel spreadsheets, email, diskettes, etc.; Last Paragraph, Page 6; Bullet 1, Page 20).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 2-5,13 and 16-17, 19-29, 31-42 and 44-50 are rejected under 35 U.S.C.

103(a) as being unpatentable over SA-Inc.com (Solomon Associates, SA) Web Pages

(January 2001) as applied to claims 1, 6, 8-12 and 14-15 above and further in view of

Resolution Integration Solution, Inc.'s (RIS) systems and methods (products/services)

as evidenced at least by the following:

    I.   RIS-Resolution.com Web Pages: December 1999, herein after reference A;

    II. RIS-Resolution.com Web Pages: April 2000, herein after reference B;

    III. RIS-Resolution.com Web Pages: June 2000, herein after reference C; and

    IV. RIS-Resolution.com Web Pages: November 2000, herein after reference D.

        Regarding independent Claim 16 SA teaches a method for modeling the

resource utilization performance of a facility (i.e. creating a

dynamic/changing/robust/evolving/iterative facility model) and comparing resource

utilization efficiency comprising:

        - utilizing an attributes (properties, characteristics, parameter, etc.) catalog

(registry, list, template, model, input form, worksheets, etc.) of system-defined (industry

standard) attributes (Paragraphs 1-2, Page 6; Last Paragraph, Page 8; Steps 1-4,

Pages 14-15; Tables 1-10; e.g. Solomon Indicators, properties, characteristics, etc.);

    - assigning the attributes to system-defined templates (input forms, workbooks,

spreadsheets, questionnaires, etc.; Last Paragraph, Page 8; Page 13);

    - assigning the templates to a facility (i.e. modeling/studying a particular industry

with industry-specific templates/models/attributes; Pages 13-15);

    - obtaining facility resource utilization data (Bullet 3, Page 19; Bullet 2, Page 20);

    - normalizing the facility resource utilization data based on the predefined

template (standard, model, etc.; Paragraph 3, Page 26; Paragraph 3, Page 35; Pages

39-40); and

    - comparing/benchmarking selected resource utilization data (Bullet 1, Page 6;

Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15; Pages 24-25).

    SA does not expressly teach creating an attributes catalog of user-defined

attributes or assigning the attributes to user-defined templates as claimed.

    Resolution Integration Solution, Inc, (RIS) teaches creating a catalog (registry,

list) of user-defined and system defined attributes and assigning/adding the user-

defined attributes to facility models/templates (reference A: Page 1; Figure 1; reference

B: Pages 3-4; Figures 3-4) in an analogous art of facility modelization for the purposes

of enabling users to configure/customize the resource utilization and attribute data being

modeled (reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph

2, Page 8; reference D: Paragraphs 1-2, Page 1).

More generally RIS teaches a set of systems and methods (Repository, Relayer,

Resolver, Resolution) for managing (defining, storing, monitoring/tracking, analyzing,

reporting) a plurality of facility information including but not limited to resource utilization

data using a plurality of predefined templates, libraries, attributes, components and data

for the purposes of enabling businesses to manage the performance of a facility

(reference B: Pages 1-2; reference C: Last Five Bullets, Last Paragraph, Pages 2-4;

Figures 3-4; reference D: Pages 1-3).

More specifically RIS teaches a method for modeling the resource utilization

performance of a facility (business, company, plant, store, etc.) comprising:

- assigning a predefined template (data model, model, solution, component, key

performance indicator, etc.) to a facility, the template including default attribute data

(reference B: Bullet 1, Page 1; Paragraph 1, Page 8; Pages 3-4; Figures 3-4; reference

D: Paragraph 2, Page 1; Paragraph 1, Page 3);

- obtaining (retrieving, entering, extracting, monitoring, etc.) facility resource

utilization data (reference B: Paragraph 2, Last Paragraph, Page 4);

- storing the attributes catalog ("registry"; reference C: Bullets 1-3 and 7, Page

1) in a predetermined electronic storage (memory, disk, database, file, repository

database, etc.; Page 1; reference D: Figure 3); and

- providing to a customer (user, client, etc.) via a intercommunicating electronic

media (phone, Internet, email, network, etc.; reference B: "Off-Site Data Management",

Column 2, Paragraph 2, Page 19).

RIS further teaches the utilization of well-known and widely used resource

utilization/performance metrics (measures, attributes, parameters, etc.) such as

Solomon Indicators (reference B: Figure 4, Page 4) as part of the facility resource

utilization template/data model.
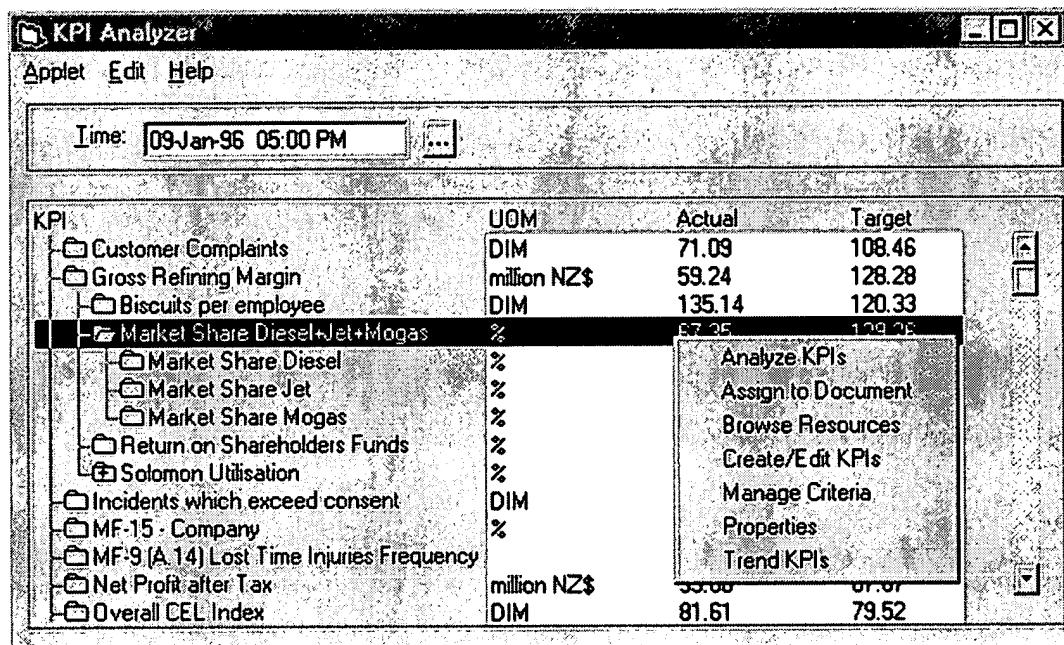
Figure 1: reference B: Figure 3, Page 3
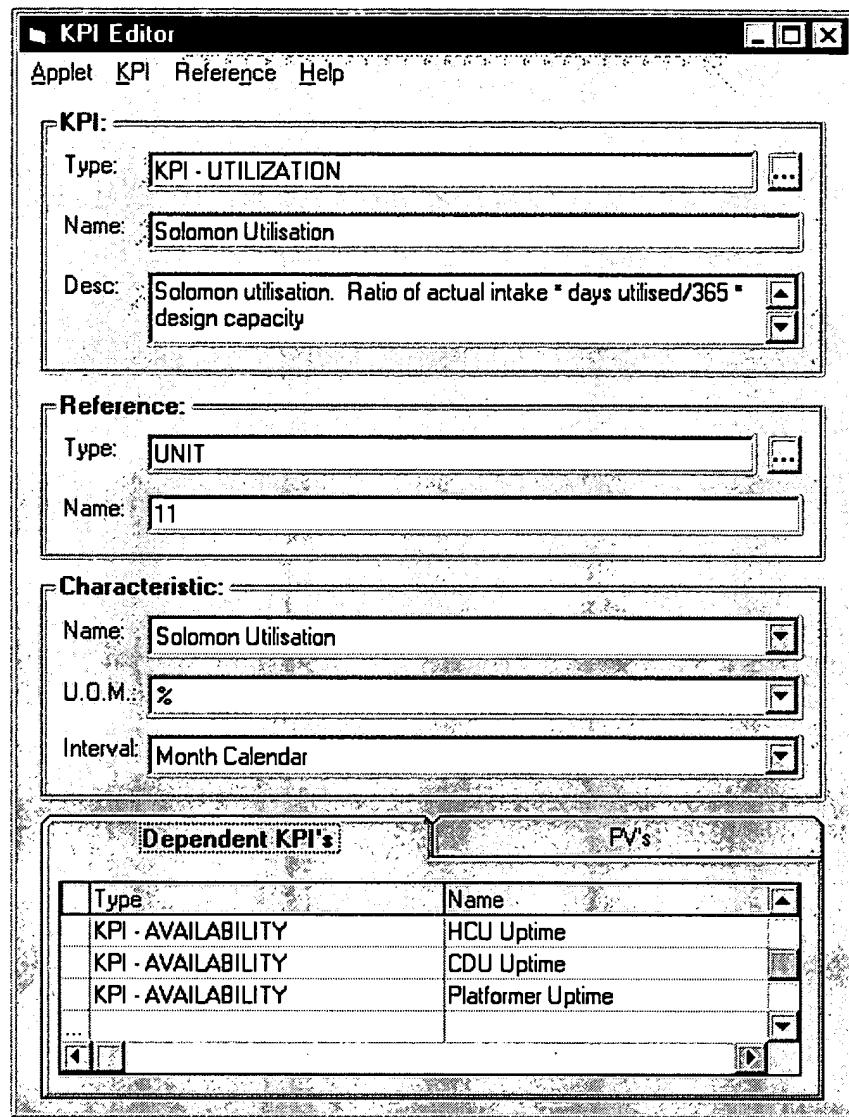
Figure 2: reference B: Figure 4, Page 4

It would have been obvious to one skilled in the art at the time of the invention

that the method for creating dynamic facility models and comparing resource utilization

efficiency as taught by SA would have benefited from enabling users to

customize/configure (i.e. define and assign/add user-defined attributes to facility

models/templates) via an attribute catalog in view of the teachings of RIS; the resultant

method enabling users to configure/customize the resource utilization and attribute data

being modeled (RIS: reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2,

Paragraph 2, Page 8; reference D: Paragraphs 1-2, Page 1).

Regarding independent Claim 29 SA teaches a method for creating a dynamic

(changing, real-time, evolving, iterative, responsive, etc.) facility models, comparing

facility resource utilization efficiency and generating user-defined reports comprising:

- utilizing an attributes (properties, characteristics, parameter, etc.) catalog

(registry, list, template, model, input form, worksheets, etc.) of system-defined (industry

standard) or user-defined attributes (Paragraphs 1-2, Page 6; Last Paragraph, Page 8;

Steps 1-4, Pages 14-15; Tables 1-10; e.g. Solomon Indicators, properties,

characteristics, etc.);

- assigning the attributes to system-defined templates (input forms, workbooks,

spreadsheets, questionnaires, etc.; Last Paragraph, Page 8; Page 13);

- assigning the templates to a facility (i.e. modeling/studying a particular industry

with industry-specific templates/models/attributes; Pages 13-15);

- obtaining facility resource utilization data (Bullet 3, Page 19; Bullet 2, Page 20);

- normalizing the facility resource utilization data based on the predefined

template (standard, model, etc.; Paragraph 3, Page 26; Paragraph 3, Page 35; Pages

39-40);

- comparing/benchmarking selected resource utilization data (Bullet 1, Page 6;

Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15; Pages 24-25); and

- generating (presenting, providing, etc.) historical or real-time reports of one of

the following datasets facility modeling, resource utilization or facility benchmarking

(Bullets 1 and 3, Page 20; Paragraph 1, Page 24; Paragraphs 3-4, Page 25).

SA does not expressly teach creating an attributes catalog of user-defined

attributes or assigning the attributes to user-defined templates as claimed.

RIS teaches creating a catalog (registry, list) of user-defined and system defined

attributes and assigning/adding the user-defined attributes to facility models/templates

(reference A: Page 1; Figure 1; reference B: Pages 3-4; Figures 3-4) in an analogous

art of facility modelization for the purposes of enabling users to configure/customize the

resource utilization and attribute data being modeled (reference B: Paragraph 2, Bullet

1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8; reference D: Paragraphs 1-2,

Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the method for creating dynamic facility models and comparing resource utilization

efficiency as taught by SA would have benefited from enabling users to

customize/configure (i.e. define and assign/add user-defined attributes to facility

models/templates) via an attribute catalog in view of the teachings of RIS; the resultant

method enabling users to configure/customize the resource utilization and attribute data

being modeled (RIS: reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2,

Paragraph 2, Page 8; reference D: Paragraphs 1-2, Page 1).

Regarding independent Claim 38 SA teaches a method for creating dynamic

(responsive, real-time, in-depth, robust, etc.) resource utilization facility models

comprising:

- assigning a predefined template (model, worksheet, form, format, equation,

etc.) to a facility wherein the template comprises default attribute data (i.e.

modeling/studying a particular industry with industry-specific

templates/models/attributes; Pages 13-15; Bullet 1, Page 19);

- obtaining facility resource utilization data (Bullet 3, Page 19; Bullet 2, Page 20);

and

- normalizing the facility resource utilization data based on the predefined

template (standard, model, etc.; Paragraph 3, Page 26; Paragraph 3, Page 35; Pages

39-40).

SA does not expressly teach an apparatus or the utilization of a facility editor

(code, program, subsystem, routine, etc.) as claimed.

RIS teaches apparatus for modeling facilities, the apparatus further comprising a

facility editor (subsystem, graphical user interface, code, etc.; KPI editor, facility data

model, equipment data management; reference A: Paragraphs 1-2, Page 1; Figure 1;

reference B: Pages 3-4; Figures 3-4), in an analogous art of facility modelization for the

purposes of enabling businesses/users to customize/configure the facility

information/data models (reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1,

Page 2, Paragraph 2, Page 8; reference D: Paragraphs 1-2, Page 1) and/or provide a

convenient mechanism for interactively entering, updating, reviewing and storing the

plurality of facility information into a single/central database (reference A: Paragraphs

1-2, Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the method for modeling the performance of a facility as taught by SA would have

benefited from utilizing a facility (data model) editor in view of the teachings of RIS; the

resultant system enabling businesses to customize/configure the facility solutions/data

models (RIS reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2,

Paragraph 2, Page 8; RIS reference D: Paragraphs 1-2, Page 1) and/or provide a

convenient mechanism for interactively entering, updating, reviewing and storing the

plurality of facility information.

Regarding Claim 2 SA teaches a method for modeling the performance of a

facility further comprising utilizing an attribute catalog (list, registry, template, model,

library, etc.) of user-defined or system-defined attributes (i.e. industry standard facility

performance attributes, Solomon Indicators; Paragraphs 1-2, Page 6; Last Paragraph,

Page 8; Steps 1-4, Pages 14-15; Tables 1-10).

SA does not expressly teach that the attribute catalog further comprises creating an attribute catalog as claimed.

RIS teaches a method for modeling the performance of a facility further comprising creating an attribute catalog ("registry", list, worksheet, template, library, etc.) comprising user-defined and system-defined attributes (elements, properties, metrics, measures, characteristics, etc.; reference A: Figures 1-2; reference B: Figures 3-4), such as Solomon Indicators, in an analogous art of modeling facility resource utilization performance, for the purposes of enabling users (businesses, firms, etc.) to customize/configure the method and its associated template (data model, library of "solutions" that can be used as-is of customized/configured; reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8; reference D: Paragraphs 1-2, Page 1).

It would have been obvious to one skilled in the art at the time of the invention that the method for modeling the resource utilization of one or more facilities as taught by SA would have benefited from enabling users to define/create an attribute catalog (data set, list) in view of the teachings of RIS; the resultant method enabling users to configure/customize the resource utilization and attribute data being modeled (RIS: reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8; reference D: Paragraphs 1-2, Page 1).

Regarding Claims 3, 17, 21 and 42 SA does not expressly teach the utilization of

a template editor (program, code, subsystem, routine, etc.) as claimed.

RIS teaches assigning attributes to a facility template using a template editor

(KPI editor; reference A: Paragraphs 1-2, Page 1; Figure 1; reference B: Pages 3-4;

Figures 3-4), in an analogous art of facility modelization for the purposes of enabling

businesses to customize/configure the standard/templated solutions/data models

(reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page

8; reference D: Paragraphs 1-2, Page 1) and/or provide a convenient mechanism for

interactively entering, updating, reviewing and storing the plurality of facility information

into a single/central database (reference A: Paragraphs 1-2, Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the method for modeling the performance of a facility as taught by SA would have

benefited from utilizing a template (data model) editor in view of the teachings of RIS;

the resultant system enabling businesses to customize/configure the

standard/templated solutions/data models (RIS reference B: Paragraph 2, Bullet 1,

Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8; RIS reference D: Paragraphs 1-2,

Page 1) and/or provide a convenient mechanism for interactively entering, updating,

reviewing and storing the plurality of facility information.

Regarding Claims 4, 26, 34 and 40 SA teaches a method for modeling the performance of a facility further comprising maintaining the attributes catalog (list, registry, template, data set, etc.) in a predetermined electronic storage (memory, Excel spreadsheets, email, diskettes, data base, etc.; Paragraphs 1-2, Page 6; Bullet 1, Page 20).

Regarding Claims 13, 24 and 48 SA teaches a method for modeling the performance of a facility further comprising presenting/reporting data in historical reports (Bullets 1 and 3, Page 20; Paragraph 1, Page 24; Paragraphs 3-4, Page 25) or real-time reports.

Regarding Claims 19, 32 and 45-46 SA teaches a method for creating dynamic facility models and comparing resource utilization efficiency further comprising aggregating the obtained resource utilization and attribute data from a user defined group of facilities (Paragraph 1, Page 8; "RAM tables", Bullet 2, Page 11; Paragraph 1, Page 24; Paragraphs 3-4, Page 25; Paragraph 1, Last Paragraph, Page 35).

Regarding Claim 20 SA teaches a method for creating dynamic facility models and comparing resource utilization efficiency wherein normalization of the resource utilization data is activated (started, invoked, etc.) by one of the following events (selected from the following events): a user update to a facility model (e.g. changes to

attribute values); user demand (i.e. as part of the facility modeling process; Paragraph

4, Page 22; Paragraph 3, Page 26) or the elapse of a predetermined time period.

Regarding Claim 21 SA does not expressly teach utilizing a facility editor as

claimed.

RIS teaches assigning selected templates (data models, attributes, properties,

solutions, etc.) to a facility via a facility editor (program, code, subsystem, routine, etc.)

(e.g. KPI editor, equipment data management, etc; reference A: Figure 1; reference B:

Figures 3-4) in an analogous art of facility modelization for the purposes of enabling

businesses to customize/configure the standard/templated solutions/data models

(reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page

8; reference D: Paragraphs 1-2, Page 1) and/or provide a convenient mechanism for

interactively entering, updating, reviewing and storing the plurality of facility information

into a single/central database (reference A: Paragraphs 1-2, Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the method for modeling the performance of a facility as taught by SA would have

benefited from utilizing a facility editor in view of the teachings of RIS; the resultant

system enabling businesses to customize/configure the facility solutions/data models

(RIS reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2,

Page 8; RIS reference D: Paragraphs 1-2, Page 1) and/or provide a convenient

mechanism for interactively entering, updating, reviewing and storing the plurality of

facility information.

Regarding Claims 22, 31 and 44 SA teaches a method for creating dynamic

facility models and comparing resource utilization efficiency further comprising obtaining

resource utilization and attribute data from two or more facilities (plants, locations, sites,

etc.; (Paragraphs 1 and 3, Page 4; Paragraphs 3-4, Page 22).

Regarding Claims 23 and 33 SA teaches a method for creating dynamic facility

models and comparing resource utilization efficiency wherein the facility attribute and

resource utilization data include the aggregate sum of two or more facilities (peer

groups, performance quartiles, etc.; Paragraph 1, Page 24; Paragraphs 3-4, Page 25;

Last Paragraph, Page 35).

Regarding Claims 27, 36 and 50 SA teaches a method for creating dynamic

facility models and comparing resource utilization efficiency wherein the resource

utilization data is one of the following: energy, water, natural gas or oil (petrochemical,

refining, etc.; Paragraph 1, Page 1, Paragraph 2, Page 2).

Regarding Claims 28 and 37 SA teaches a method for creating dynamic facility

models and comparing resource utilization efficiency wherein the method and data are

provided to a customer (user, client, etc.) via a intercommunicating electronic media

(Excel spreadsheets, email, diskettes, etc.; Last Paragraph, Page 6; Bullet 1, Page 20).

Regarding Claim 39 SA does not expressly teach utilizing an attributes catalog

editor as claimed.

RIS teaches creating a catalog (registry, list) of user-defined and system defined

attributes and assigning/adding the user-defined attributes to facility models/templates

(reference A: Page 1; Figure 1; reference B: Pages 3-4; Figures 3-4) in an analogous

art of facility modelization for the purposes of enabling users to configure/customize the

resource utilization and attribute data being modeled (reference B: Paragraph 2, Bullet

1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8; reference D: Paragraphs 1-2,

Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the method for creating dynamic facility models and comparing resource utilization

efficiency as taught by SA would have benefited from enabling users to

customize/configure (i.e. define and assign/add user-defined attributes to facility

models/templates) in view of the teachings of RIS; the resultant method enabling users

to configure/customize the resource utilization and attribute data being modeled (RIS:

reference B: Paragraph 2, Bullet 1, Page 3; Paragraph 1, Page 2, Paragraph 2, Page 8;

reference D: Paragraphs 1-2, Page 1).

Regarding Claim 47 SA teaches method for creating dynamic resource utilization facility models further comprising comparing and ranking normalized resource utilization data (Bullet 1, Page 6; Bullet 2, Page 7; Paragraph 3, Page 9; Last Paragraph, Page 15).

Regarding Claim 49 SA teaches an method for creating dynamic resource utilization facility models further comprising enabling customers (clients, users, etc.) to access predefined templates, resource utilization data retrieval, data normalization, default facility attribute or historical and real-time reports via electronic media (memory, Excel spreadsheets, email, diskettes, data base, etc.; Paragraphs 1-2, Page 6; Bullet 1, Page 20).

10.   Claims 7, 18, 30 and 43 are rejected under 35 U.S.C. 103(a) as being

unpatentable over SA-Inc.com (Solomon Associates, SA) Web Pages (January 2001) in

view of Resolution Integration Solution, Inc.'s (RIS) systems and methods

(products/services) as evidenced at least by the following:

    I.   RIS-Resolution.com Web Pages: December 1999, herein after reference A;

    II. RIS-Resolution.com Web Pages: April 2000, herein after reference B;

    III. RIS-Resolution.com Web Pages: June 2000, herein after reference C; and

    IV. RIS-Resolution.com Web Pages: November 2000, herein after reference D

       as applied to claims 1-6, 8-17, 19-29, 31-42 and 44-50 above and further in view

of Juneau, Mark Anthony, U.S. Patent Publication No. 2004/0015271.

Regarding Claims 7, 18, 30 and 43 neither SA nor RIS expressly estimating

(predicting, forecasting, "guestimating", etc.) facility attribute and resource utilization

data for any past period of time (historical) as claimed.

Juneau teaches estimating facility attribute and resource utilization data for any

past period of time (historical), in an analogous art for modeling the performance

(benchmarking) of a facility (Paragraph 0005), wherein the system is "…configured to

determine revenues likely to be generated by one or more plants, based upon actual

historical operations and cost data and predicted operations and cost data…"

(Paragraph 0042; Figures 1, 2) and that such calculations assist in determining the

performance, in this case financial performance/worth, of the facility.

More generally Juneau teaches method and system for modeling the

performance of one or more facilities (benchmarking, performance

evaluation/assessment, facility modeling) wherein the system/method enables "... users

to evaluate the operational and financial performance of a selected power generated

asset by utilizing a pre-defined strategic model..." (i.e. predefined facility template;

Paragraph 0005) and further "...assists the user to perform comparisons of various

facilities..." (Paragraph 0005).

More specifically Juneau teaches a method and system for modeling the

performance of a facility further comprising:

- utilizing a set of predefined attributes (strategic models, template, catalog, etc.;

Paragraphs 0049-0052; Figures 9, 15-16) wherein the templates have default

(standard) values for attributes ("...input allows the user to select standard fuel analysis

for coal, oil or natural gas or to input actual values...", Paragraph 0050);

- enabling users to add, update or delete the plurality of attribute and facility

information stored in a database (Paragraph 0070).

- utilizing an editor (form, interface, program) to manage a set of pre-defined

and/or user-defined attributes, templates (strategic models) and other information

(Paragraphs 0049-0052, 0070);

- utilizing a computer network (Internet) to collect, analyze, and report a plurality

of performance/benchmark information to/from a customer (Paragraphs 0036, 0044;

Figure 1); and

- providing customers (users) access electronically (Internet) to at least the following: predefined templates (Paragraphs 0005, 0049-0052; Figures 9, 15-16), resource utilization collection means (Paragraph 0044), default facility attribute data (Paragraph 0050) and historical and real-time reports (Paragraphs 0042, 0071).

It would have been obvious to one skilled in the art at the time of the invention that the method for modeling the performance of a facility as taught by the combination of SA and RIS would have benefited from estimating/predicting one or more historical performance attribute data in view of the teachings of Juneau; the resultant system enabling users to model performance attributes for which data is not readily available or is best represented by typical (standard, estimated) data/values (Juneau: Paragraph 0050).

Examiner's Note

The invention, as disclosed in the instant application, is directed to a method and system for dynamically creating resource utilization performance models for a plurality of facilities' wherein the models account for changes in a facilities' attributes over time and highlight opportunities to improve the facilities' resource utilization (e.g. reduce resource consumption) by benchmarking one or more facilities against normalized user-defined and system-defined attributes.

The instant application may disclose patentable subject matter however not all of the disclosed potentially patentable subject matter is recited in the claims. An interview with the examiner may be productive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Powers et al., U.S. Patent No. 5,500,795, teach a system and method for modeling the performance of a facility wherein the system/method defines, selects, generates, normalizes, classifies, tracks and monitors a plurality of performance variables dynamically over time. Powers et al. further teach the utilization of a framework (template) which represent how the plurality of performance variables interact/are related.

- Janovski et al. U.S. Patent No. 5,726,914, teach a system and method for "providing real-time monitoring and analysis of performance indicators."

- McLean et al., U.S. Patent Publication No. 2001/0053993, teach a system and method for dynamically modeling the current and future performance of an organization wherein users select/utilize performance templates (e.g. assurance template), matrices and/or reports.

- Lajouanie, Patrick, U.S. Patent Publication No. 2002/0178035, teaches a performance management system and method wherein users select/assign one or more predefined business performance models (templates) for monitoring the performance of a business activity/activities wherein the performance models enable users to "predict how a business activity is likely to perform and/or how well resources of the business activity are utilized." Lajouanie further teaches the system/method for managing and monitoring the performance of a business further enables users to measure/monitor how a business process' performance changes/performs over time.

- Planergy Unveils Customer Energy Assessment Services for Semiconductor Manufacturers (1998) teaches a method for modeling the performance of one or more facilities with respect to the facilities' resource utilization (i.e. creating a facility resource utilization models) utilizing replicable facility/attribute templates wherein resource utilization and attribute data are collected, stored, aggregated, analyzed and reported on.

- Performance Monitoring Evaluation and Tips (1996) teaches a method for selecting performance indicators (metrics, attributes, facilities) as part of well known benchmarking techniques (i.e. modeling the performance of facilities, businesses,

processes, etc.) wherein the selection process includes iteratively refining the attributes/benchmarks/metrics.

- MECON Announces New Web-Based Tools for Healthcare Cost Management and Planning (1999) teaches an online system and method for modeling the performance of one or more facilities (benchmarking, comparative analysis) dynamically, in real-time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1/15/2006

SUSANNA M. DIAZ
PRIMARY EXAMINER

AU 3623